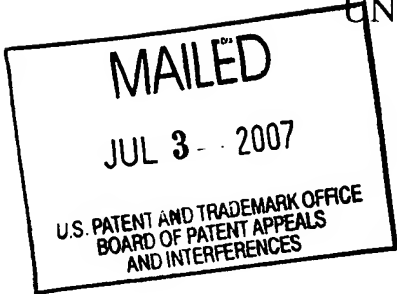


The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE



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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte MARK J. MCARDLE and BRENT A. JOHNSTON

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Application 10/068,280  
Appeal No. 2007-1783

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ORDER REMANDING APPEAL TO EXAMINER

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This application was electronically received at the Board of Patent Appeals and Interferences on February 5, 2007. A docketing notice was mailed and Appeal No. 2007-1793 was assigned on March 30, 2007. A review of the application has revealed that the application was not ready for an appeal. Accordingly, the application is herewith being remanded to the Examiner. The matter requiring attention is identified below.

On November 13, 2006, applicants filed a timely Reply Brief. In accordance with the revision effective July 1, 2006, Title 37, Code of Federal

Application 10/068,280  
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Regulations, §41.39(b)(2) states:

Maintain appeal. Request that the appeal be maintained by filing a reply brief as set forth in §41.41. Such a reply brief must address each new ground of rejection as set forth in §41.37(c)(1)(vii) and should follow the other requirements of a brief as set forth in §41.37(c). A reply brief may not be accompanied by any amendment, affidavit (§§1.130, 1.131 or 1.132 of this title) or other evidence. If a reply brief filed pursuant to this section is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under paragraph (b)(1) of this section.

MPEP § 1207.03 states in part:

If appellant requests that the appeal be maintained, the appellant must file a reply brief that addresses each new ground of rejection set forth in the answer in compliance with 37 CFR 41.37(c)(1)(vii) within two months from the mailing of the answer. The reply brief should include the following items, with each item starting on a separate page, so as to follow the other requirements of a brief as set forth in 37 CFR 41.37(c):

- (1) Identification page setting forth the appellant's name(s), the application number, the filing date of the application, the title of the invention, the name of the examiner, the art unit of the examiner and the title of the paper (i.e., Reply Brief);
- (2) Status of claims page(s);
- (3) Grounds of rejection to be reviewed on appeal page(s); and
- (4) Argument page(s).

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Accordingly, it is

**ORDERED** that the application is remanded to the examiner to have applicants file a Reply Brief in compliance with 37 CFR §41.39(b)(2) and 37 CFR § 41.37(c) and for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: *Patrick J. Nolan*  
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